

## PATENT

REMARKS

In the Office Action dated June 16, 2004, claims 1 and 2 are rejected under 35 U.S.C. §102(e) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent Number 6,539,259 to Weinberg et al. Without addressing the merits of the rejection of claims 1 and 2, in accordance with the American Inventors Protection Act, the *Weinberg et al.* reference does not qualify as prior art for a rejection under 35 U.S.C. §103(a) via 35 U.S.C. §102(e) because the present application has been filed on or after November 29, 1999 and the subject matter of the Weinberg et al. reference and claims 1 and 2 were, at the time the invention was made, subject to an obligation of assignment to the same. Accordingly, the Weinberg et al. reference no longer qualifies as prior art under 35 U.S.C. §103(a).

With regards to the rejection of claims 1 and 2 under 35 U.S.C. §102(e), it is apparently conceded that the Weinberg et al. reference does not disclose storing statistical information generated for measured values as recited in claim 1 of the present application. In the Office Action dated June 16, 2004, the Examiner states that the step of storing the statistical information generated for the measured values is considered obvious because if one is attempting to use the statistical information to predict an expected location of a T-wave, one must have this information stored in memory beforehand. As such, the Weinberg et al. reference does not teach every element of claim 1, and, thus, does not anticipate claim 1 under 35 U.S.C. §102(e). Claims 2, 3, and 4 depend from claim 1 and are similarly patentable. Accordingly, it is respectfully submitted that claims 1-4 are in condition for allowance.

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CONCLUSION

In light of the above remarks, it is respectfully submitted that the application is in condition for allowance, and an early notice of allowance is requested.

Respectfully submitted,

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Date

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